

SENATE BILL 3267

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 68,  
Chapter 11 and Title 71, Chapter 5, relative to  
long-term care services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, is amended by adding the following  
new chapter, thereto:

71-7-101. This chapter shall be known and may be cited as, the “Long-Term  
Care Identification and Assessment Act.”

71-7-102. The purpose of this chapter is to ensure that Tennesseans, who  
receive long-term care services through medical assistance, do so in least restrictive  
setting appropriate in order to maximize individual autonomy, promote independence  
and dignity, and reduce the state’s reliance upon more expensive institutional care for its  
seniors and persons with disabilities.

71-7-103. As used in this chapter, unless the context clearly otherwise requires:

(1) “Bureau” means bureau of TennCare;

(2) “Commissioner” means commissioner of finance and administration;

(3) “Independent professional assessment” means a preliminary or  
comprehensive assessment conducted by a qualified individual who is neither an  
employee, agent or otherwise affiliated with an institution or other service  
provider with a financial interest in the provision of long-term care services;

(4) “Independent verification” means verification personally witnessed by  
a qualified individual who is neither an employee, agent or otherwise affiliated  
with an institution or other service provider with a financial interest in the  
provision of long-term care services; and

(5) "Institution" means nursing homes, developmental centers, and intermediate care facilities for persons with mental retardation

71-7-201. Independent professional assessments are meant to ensure the integrity and timeliness of the information available to the bureau as well as provide a whole-person assessment of an individual's needs, desires, and well-being for purposes of providing long-term care services in the least restrictive setting appropriate.

71-7-202.

(a) The bureau shall establish a system of independent professional assessments of individuals living in institutions as well as individuals seeking long-term care services through Medicaid or other state and federal programs.

(b) These assessments shall be conducted by evaluators qualified to assess and make recommendations regarding appropriate long-term care services, including home- and community-based services. Furthermore, these evaluators shall be independent of any institution or service provider with a financial interest in the placement of individuals for long-term care.

71-7-203.

(a) For individuals seeking long-term care services, but not already living in an institution, a preliminary assessment shall be completed within five (5) working days and include:

- (1) The person's full name, address, sex, and date of birth;
- (2) Contact information of guardian or conservator, if any;
- (3) Contact information of spouse or nearest relatives, if any;
- (4) A cursory history including medical conditions, medications taken, and limitations on ability to perform activities of daily living;

(5) Provision of educational information regarding long-term care options in Tennessee;

(6) A statement regarding the person's preference for either long-term care in an institution or through home- and community-based services. If the person has a guardian or conservator with a contrary opinion then it should be noted as well; and

(7) A preliminary recommendation for the initial provision of appropriate long-term care in either an institution or through home- and community-based services.

(b) If the preliminary assessment results in admission to an institution, then a comprehensive assessment, pursuant to § 71-7-205 shall be completed within ten (10) working days following admission.

(c) If the preliminary assessment results in enrollment in home- and community-based services, then a comprehensive assessment, pursuant to § 71-7-205 shall be completed within ten (10) working days following enrollment.

(d) If medical emergency or other extenuating circumstances beyond the bureau's control prevent the conduct of a preliminary assessment prior to admission to an institution, then a comprehensive assessment shall be completed within ten (10) working days of admission.

71-7-204.

(a) For individuals already living in institutions on the date this chapter becomes effective, the bureau shall conduct an initial round of comprehensive assessments pursuant to § 71-7-203. These assessments shall be completed no later than July 1, 2009.

(b) Subsequent assessments shall take place at least once every twenty-four (24) months, unless an evaluator recommends a longer interval between assessments that, in no case, shall exceed thirty-six (36) months.

(c) An individual has the right to request a new assessment if one has not been performed in the previous twelve (12) months.

(d) The bureau shall not be required to provide an independent professional assessment to the following individuals unless requested by the individual, their guardian, or conservator, if any:

(1) Individuals sixty-five (65) years of age or older who have resided in a nursing home for more than three (3) consecutive years prior to the effective date of this chapter; and

(2) Individuals admitted to an institution for short-term rehabilitation, typically lasting no more than twelve (12) weeks. However, if it becomes clear that such individuals may require long-term institutional or home- and community-based care, then the bureau shall be notified by the institution within five (5) working days and a comprehensive assessment shall be conducted pursuant to this chapter within fifteen (15) days.

71-7-205. In conducting a comprehensive assessment evaluators shall personally assess, assist, confirm, provide, and recommend, at a minimum, all of the following:

(1) Confirm the person's full name, address, sex, and date of birth, as well as any medical conditions;

(2) Confirm address of institute of residence, if any, and length of most recent stay;

- (3) Confirm contact information of guardian or conservator, if any;
- (4) Confirm contact information of spouse or nearest relatives, if any;
- (5) Personally assess any limitations on ability to perform activities of daily living;
- (6) Provide counseling regarding long-term care options, including home- and community-based services, and assist in exploring those options;
- (7) Personally confirm an individual's affirmatively stated desire to either remain in an institution, transfer to another institution, or transition to home- and community-based services. If the individual has a guardian or conservator with a contrary opinion then it should be noted;
- (8) Recommend the complement of services and supports the person will need to successfully transition to home- and community-based services, making note of any needed home- and community-based services not presently offered;
- (9) Assess any barriers, medical, financial, or otherwise, to the person successfully transitioning to home- and community-based services; and
- (10) Set preliminary date for the next comprehensive assessment in accordance with § 71-7-204(b).

71-7-206. If an individual expresses a desire to transition to home- and community-based services and if the evaluator believes such a transition may be successful, then the bureau shall take all steps necessary to begin transition within ninety (90) days, including enrollment in all appropriate Medicaid waivers and programs. In no case shall the transition take more than one hundred eighty (180) days to complete.

71-7-301. The area agencies on aging and disabilities shall include in their services the provision of educational information approved by the bureau regarding long-

term care services, including home- and community-based services. This information shall include a description of all available waivers and contact information so that Tennesseans can learn more about eligibility.

71-7-302. Tennessee hospitals shall make readily available to patients educational information approved by the bureau regarding long-term care services, including home- and community-based services. This information shall include a description of all available waivers and contact information so that Tennesseans can learn more about eligibility.

71-7-303. Institutions shall be required to annually provide residents and their guardian or conservator, if any, with educational information approved by the bureau regarding available home- and community-based alternatives. This information shall include a description of all available waivers, a resident's right to request a comprehensive assessment once every twelve (12) months, and contact information so that residents can learn more about eligibility.

71-7-401.

(a) The bureau shall annually publish a comprehensive report by July 1st of each year utilizing the data collected pursuant to this chapter and shall submit this report with recommendations for improvement of Tennessee's long-term care system to the governor; the commissioner of finance and administration; the health and human services and finance, ways and means committees of the house of representatives; the general welfare, health and human resources and finance, ways and means committees of the senate; the attorney general and reporter; health services and development agency; division of mental retardation services; and the commission on aging and disability. Furthermore, the report shall be made available to the public through the state's web site.

(b) The report shall include, but is not limited to, the following information:

(1) The number of persons receiving Medicaid services in an institution in the previous year and, of those, the number desiring to transition to home- and community-based services (HCBS). It should indicate how many of those desiring HCBS are viable candidates for such services according to independent assessments. The report shall break down these numbers by region, age, and type of disability or medical condition;

(2) The number of individuals successfully transitioned into home- and community-based services in the previous year. The report shall break down these numbers by region, age, and type of disability or medical condition;

(3) An enumeration of the primary barriers to transition for those desiring home- and community-based services but unable to transition into home- and community-based services;

(4) A detailed breakdown and comparison of Tennessee's spending on institutional care versus home- and community-based care for persons receiving services through Medicaid; and

(5) A comparison of Tennessee's spending on institutional and home- and community-based services to spending and practices in other states.

71-7-501.

(a) To facilitate the effective and efficient uses of data culled from assessments as well as ensure appropriate transitions to home- and community-

based services when indicated by assessments, it is necessary to establish and maintain a centralized system of reporting and data management.

(b) By July 1, 2008, the commissioner shall investigate, report, and make recommendations to the following persons regarding the establishment of a centralized registry or system of data management to complement and coordinate Tennessee's system of independent, professional assessments: the governor; the commissioner of finance and administration; the health and human services and finance, ways and means committees of the house of representatives; the general welfare, health and human resources and finance, ways and means committees of the senate; the attorney general and reporter; health services and development agency; division of mental retardation services; and the commission on aging and disability. Furthermore, the report and recommendations shall be made available to the public through the state's web site.

71-7-601. The bureau may discharge its responsibilities under this chapter directly, through interagency agreement or outside contract; provided that authorized access to assessments, reports, and supporting materials by means of a single centralized agency shall be assured.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.